

PART OF COUNTY ACT IS MADE NULL AND VOID

The Supreme Court Expunges the Proposed Board of Public Institutions.

Legality of Whole Act Not Considered—Grounds of Decision Are That Act Embraces More Than One Subject.

The Board of Public Institutions created by the County Act is no more. Yesterday afternoon the Supreme Court rendered a unanimous decision making the County Act, so far as it relates to the Board of Public Institutions, null and void.

Superintendent Henry E. Cooper, it happens, has officially lived just long enough to enjoy one evening's triumph over the Legislature's attempt to deprive the Superintendent of Public Works of the greater part of the functions that the Organic Act prescribed he should exercise. The case now decided arose from the resistance of Mr. Cooper to the authority of the Board of Public Institutions.

Judge Gear decided that the Board of Public Institutions was an illegal body in that its members were not appointed as such by the Governor, the Organic Act placing the appointment of all boards of a public character among the duties the Governor should perform. He touched upon other points raised, but found it unnecessary to decide the one attacking the validity of the entire statute—namely, that the bill had not passed the three readings in each house of the Legislature which the Organic Act requires.

The Supreme Court finds the County Act to be illegal, so far as it relates in title and text to the Board of Public Institutions, because, contrary to the Organic Act, it embraces more than one subject. It not only provides for "the organization and government of counties and districts," but for "the management and control of public works and public institutions therein"—that is, in the counties and districts.

While mentioning the several lines of attack on the Board of Public Institutions which Mr. Cooper's counsel took in resisting the writ of mandamus, the Supreme Court contents itself with deciding the main issue raised in the petition for the writ. As the Circuit Judge had done, it leaves the validity of the County Act as a whole an open question. There is nobody or nothing in the world more steadfast than courts of justice in observing the principle of not crossing a bridge before it is reached.

This was a test case, so far as it went, for which the outcome has been eagerly awaited by the people of the Territory, who have just participated in the first elections under the County Act. Therefore the decision of the Supreme Court in full is here presented to the readers of the Advertiser:

COUNTY ACT CASE DECISION IN FULL

In the Supreme Court of the Territory of Hawaii. October term, 1903.

In the matter of the application of Sanford B. Dole, Governor, George R. Carter, Secretary, A. N. Kepoika, Treasurer, J. H. Fisher, Auditor, A. T. Atkinson, Superintendent of Public Instruction, and Lorrin Andrews, Attorney General, as the Board of Public Institutions of the Territory, for a Writ of Mandamus against Henry E. Cooper, as Superintendent of Public Works of the Territory.

Appeal from Circuit Judge, First Circuit.
Submitted November 6, 1903.
Decided November 17, 1903.

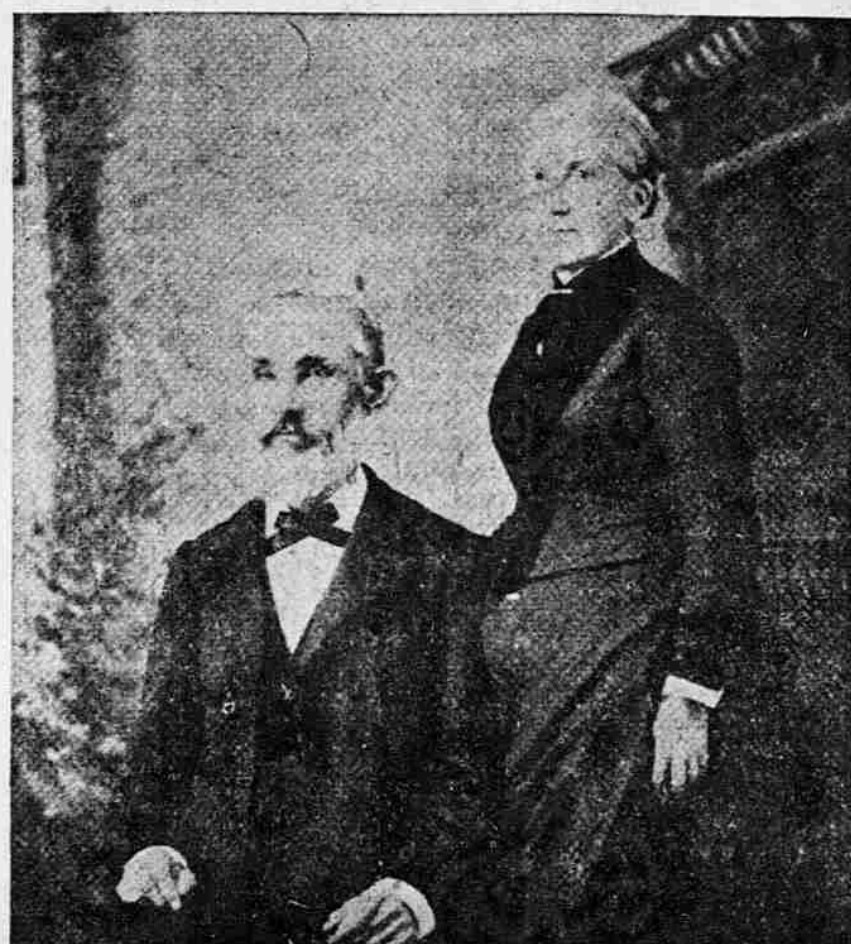
FREAR, C. J., GALBRAITH AND PERRY, JJ.

An act entitled "An Act providing for the organization and government of counties and districts, and the management and control of public works and institutions therein," is invalid as to so much thereof as purports to create a Territorial Board of Public Institutions and to transfer to it matters theretofore belonging to the Territorial Superintendent of Public Works, and with which the counties were to have nothing to do, in view of Sec. 45 of the Organic Act, which provides "that each law shall embrace but one subject, which shall be expressed in its title."

OPINION OF THE COURT BY FREAR, C. J.

This is an appeal from an order denying a writ of mandamus to compel the respondent to deliver to the petitioners the control of all matters relative to harbors, wharves, pilots and towage, and of all property used in connection therewith, and the control and management of the executive and judiciary buildings at Honolulu, as required in terms by Sections 454 and 455 of Act 31 of the Laws of 1903, commonly known as the County Act. Chapter 64 (Secs. 380-391) of that Act purports to create a Board of Public Institutions consisting of the Governor, Secretary, Treasurer, Auditor, Supt. of Public Instruction and

DEATH OF MRS. HIRAM BINGHAM AFTER AN ILLNESS OF TEN YEARS



THE LATE MRS. BINGHAM AND HER HUSBAND, THE REV. HIRAM BINGHAM.

After an illness that had lasted for ten years, one contracted through the hardships of early missionary work among the natives of Micronesia, Mrs. Minerva Clarissa Bingham, wife of the Rev. Hiram Bingham, died at the family home in Alexander street last evening.

Mrs. Bingham had been a sufferer for ten years from paralysis agitans. Every care has been taken of her during that time but she had been gradually failing in health until last May she fell a victim to the dengue fever. Since then she has been confined to her bed.

Mrs. Bingham was well known as a woman of high character and lofty ideals. Throughout the small islands that dot the seas of Micronesia she is known to the natives as a friend and helper. Had she lived until next October she would have been seventy years old. She was born at Northampton, Mass., on October 19, 1834, and received her education there. It was in Massachusetts that she met the then young Hiram Bingham, son of one of the earliest Hawaiian missionaries, who was in the East receiving an education preparatory to leading a life of religious activity in the South Pacific. Her marriage to Mr. Bingham was solemnized on Nov. 18, 1856, only nine days after he had been ordained a minister. The young couple immediately made preparations for their trip to Hawaii and a couple of weeks after the marriage were on board the brig "Morning Star," the first missionary vessel of

that name, starting on a long honeymoon voyage around Cape Horn to Hawaii and the islands of Micronesia. They reached Honolulu on April 24th of the following year and within a few months were at Ponape, where an assembly of missionaries decided that the young couple should take up their labors at Apiang. They commenced their work at the latter point on Nov. 18, 1857, and the hardships they had to endure there for many years, living on the food of the South Seas and in quarters very unlike a comfortable New England home, undermined the health of Mrs. Bingham and also of the Rev. Mr. Bingham.

Nearly half a century ago missionary life in Micronesia was a very strenuous undertaking. Sometime ago Mr. Bingham gave a brief account of some of the happenings incident to labors of himself and wife in Micronesia from the time that they settled at Apiang. One year's work, contending with climate, bad food and other evils, was enough to break down Mr. Bingham's health, and he returned to Boston, where he superintended the building of the second "Morning Star."

When that vessel was built, he went in command of her on another voyage to Micronesia until his health broke down again and he came to Honolulu. Here he remained for some time, returning to the Gilberts in 1868.

The Gilbert Islands when Mr. Bingham first went there was a very undesirable place. The inhabitants were warlike and jealousies among the chiefs excit-

(Continued on page 4.)

AMERICANS SALUTE NEW PANAMA FLAG

Imposing Ceremonies Mark the Full Recognition of the Young Republic.

Dominican Insurgents Fire on an American Steamer—The Texan Makes a Record Run. Gen. MacArthur Coming to Honolulu.

(ASSOCIATED PRESS CABLEGRAMS.)

PANAMA, Nov. 18.—The United States cruiser Marblehead hoisted the flag of the new republic and saluted it with 21 guns. A Panama gunboat and the forts reciprocated by raising and saluting the American flag. After the ceremonies Rear Admiral Glass officially called on the Junta and expressed his well-wishes. President Arias responded in terms of gratitude to the United States and there was great popular enthusiasm.

DOMINICAN REBELS FIRE ON CLYDE LINER

WASHINGTON, Nov. 18.—The Government has refused to recognize the Dominican revolutionists and has protested against the blockade. San Domingo is completely invested and is now being bombarded. A general attack is expected momentarily.

The revolutionists fired on the American Clyde liner as she was entering Samana bay but the vessel was uninjured.

The Clyde line of steamers running from New York to Dominican ports are unpopular with a portion of the people of the country. The Clyde line had a claim against the Dominican government for \$350,000 for refund of wharfage and other port dues and unable to get satisfaction from the government finally secured a presentation of their claim through the United States government. Minister Powell demanded the settlement of the claim but the matter was still in the air at the time the present revolution broke out. The port of Samana, in which the New York was fired upon, is being greedily watched by European powers that wish to secure it for a coaling station.

GENERAL MACARTHUR EN ROUTE TO HONOLULU

SAN FRANCISCO, Nov. 18.—General MacArthur, Col. Provest, Mrs. S. B. Terry and Collector Stackable have sailed for Honolulu on the Korea.

TEXAN MAKES RECORD RUN TO PHILADELPHIA

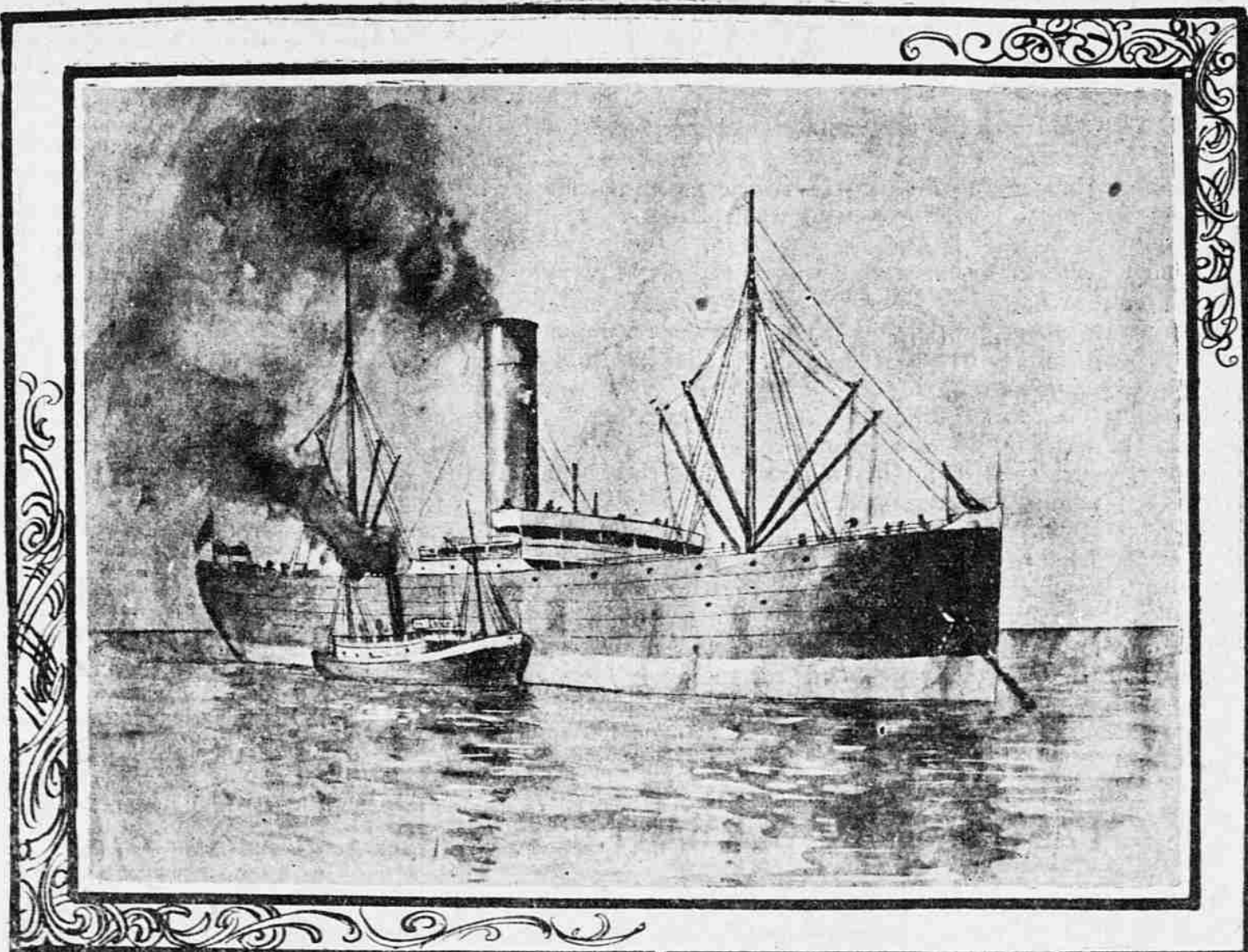
PHILADELPHIA, Nov. 18.—The steamship Texan, with 58,884 bags of sugar from Honolulu, has made a record run to this port from Tacoma.

The trip of the well-known American-Hawaiian freighter Texan, Captain Morrison, from Tacoma, Washington, through the Straits of Magellan, to Philadelphia, in fifty days is one of the most remarkable passages on record. The journey is one of about 14,000 miles. As the Texan made no stops on the whole trip she had to be provided at Tacoma with a sufficient quantity of fuel, water, and provisions to last for the voyage.

This was the longest run ever attempted by a steamer and at its inception there were many who predicted that the vessel would be unable to make the trip without calling at some South American port.

The Texan is a sister vessel of the Arizonan and the Alaskan, both crack freight-carriers. She was in Honolulu early this year on her maiden voyage from New York. On this voyage from New York she made the run to San Francisco, including short delays in the Straits of Magellan, in forty-seven days. The Texan is 494 feet long, fifty-six feet beam, thirty-five feet deep, and when fully loaded draws nearly thirty feet of water. She carries a crew of forty-two men in addition to her officers. Captain Morrison is very well known in Honolulu and is regarded as one of the ablest skippers in the round the Horn trade.

Her quick trip, made without expensive calls at South American ports, means that the vessel has made a good profit for her owners.



STEAMSHIP TEXAN.